

EXTENDING THE EXISTING APPLICATION OF THE
TEMPORARY PROMOTION ACT OF 1941, AS AMENDED,
TO THE COAST GUARD

JUNE 8, 1956.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BONNER, from the Committee on Merchant Marine and Fisheries,
submitted the following

R E P O R T

[To accompany H. R. 11402]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H. R. 11402) to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

Section 1 of the bill H. R. 11402 would amend existing law by extending the application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard until January 1, 1962. While the latter act is permanent with respect to the Navy, Marine Corps, and Coast Guard during time of war or national emergency, its application to the Coast Guard in time of peace expires on January 1, 1957. Hence, it is believed that such extension is necessary in order to prevent possible reversion of temporary officers to their permanent status, with resultant hardship to both the Coast Guard and those officers who would be so affected. Moreover, present world conditions, which show a future need for a greater number of active-duty officers than are authorized under existing law, justify the continuance of this authority for temporary appointments and promotions.

Section 2 of the bill would amend title 14, United States Code, to increase the maximum authorized commissioned officer strength of the Coast Guard from 2,250 to 3,500. At the time the statutory ceiling of 2,250 was established, the Coast Guard only had about 1,800 officers. During the Korean conflict, however, the number of officers increased

to about 3,100. Such increase was made possible under authority of a temporary law which is due to expire on July 31, 1957. Hence, it is believed that unless an amendment of this kind is adopted, the authorized strength of the Coast Guard will revert to its former strength, resulting in serious impairment of service efficiency. Moreover, by raising the ceiling to 3,500 officers, as proposed, authority would then exist to effect an immediate increase in officer strength in the event of a sudden change in service commitments comparable to that required by the Korean incident.

Section 2 further amends title 14 by providing for a temporary increase in the authorized number of officers in any grade by the number of officers originally appointed in such grade. This is necessary in order to eliminate a technical violation of section 42 of the code when graduates of the Coast Guard Academy are commissioned.

Title 14 is also amended to permit the authorized number of officers in a grade to be exceeded by the number of officers for whom vacancies exist in the next higher grade but whose promotion, due to temporary inability to meet physical standards or for other reasons, has been delayed. Hence, under this amendment, the necessity under present law of postponing certain promotions occasioned by such delays would be avoided.

Section 3 of the bill is amended by providing that Coast Guard officers, including those of the Reserve, who have served continuously since taking the original oath of office, are not required to take a new oath upon promotion to a higher grade. Similar provisions presently exist in the laws regulating the other Armed Forces. This bill was the subject of an executive communication from the Department of the Treasury.

The departmental reports are as follows:

TREASURY DEPARTMENT,
Washington, May 18, 1956.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

MY DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill, to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes.

The purposes of this proposal are (1) to amend section 16 of the act of July 23, 1947 (ch. 301, 61 Stat. 413), as amended, so as to extend until January 1, 1962, the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard—the existing application of the act expires on January 1, 1957; (2) to amend section 42 of title 14, United States Code, entitled “Coast Guard,” so as to increase the limitation on the number of officers on the active list of the Coast Guard from 2,250 to 3,500, and to provide that the authorized number of officers in any grade is temporarily increased between computations by the number of officers originally appointed during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason; and (3) to amend title 14, United States Code, by adding a new section 439 thereto providing that a commissioned or warrant officer of the Coast Guard who has served continuously since he took the oath of office is not required to take a new oath upon his promotion to a higher grade.

The attached memorandum describes in more detail the need for and nature of the proposed bill.

Enactment of the proposed bill would not result in a need for an increase in appropriations.

It would be appreciated if you would lay the proposed bill before the House of Representatives. A similar proposed bill has been transmitted to the President of the Senate.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this proposed legislation to the Congress.

Very truly yours,

DAVID W. KENDALL,
Acting Secretary of the Treasury.

MEMORANDUM RE DRAFT BILL TO EXTEND THE EXISTING APPLICATION
OF THE TEMPORARY PROMOTION ACT OF 1941, AS AMENDED, TO THE
COAST GUARD, AND FOR OTHER PURPOSES

At the beginning of World War II all commissioned officers of the Coast Guard were serving under permanent appointments. The Temporary Promotion Act of 1941 (act of July 24, 1941, 34 U. S. C. 350 et seq.; 55 Stat. 603) provided for temporary appointment and promotion of commissioned and warrant officers of the Navy and Coast Guard. Permanent promotions of officers in the Navy and Coast Guard were suspended during the war by the act of June 30, 1942 (56 Stat. 463). Following the end of hostilities this suspension was lifted and permanent promotions were again made.

After the war it was obvious that a need would continue for some years for the retention on active duty of officers with temporary appointments in both the Navy and Coast Guard. So, with respect to the Coast Guard, the application of the Temporary Promotion Act of 1941 to the Coast Guard was continued by section 16 of the act of July 23, 1947 (61 Stat. 413), as amended, "Until such time as the Secretary shall determine that the number of officers holding permanent appointments on the active list of the Coast Guard is equal to 95 percent of the number of such officers authorized by law, exclusive of extra numbers, or on January 1, 1957, whichever shall occur earlier." The "95 percent condition" has not been met; the Temporary Promotion Act is still in effect with respect to the Coast Guard. However, its expiration on January 1, 1957, necessitates an extension of the application of the act to the Coast Guard. If the present national emergency continues to exist after January 1, 1957, the President could by Executive order invoke the application of the Temporary Promotion Act of 1941 to the Coast Guard; however, it is uncertain that the present emergency will continue after that time. Continued authority for temporary appointments and promotions is needed because world conditions show clearly that the number of officers on active duty in the Coast Guard in the foreseeable future will be greater than the number authorized by permanent law. Moreover, many of the temporary commissioned officers now on active duty in the Coast Guard cannot meet all of the requirements for a permanent commission although they are well-qualified for the limited duties to which they are assigned. If the temporary appointment authority expires without extension, to fill the existing needs

of the service it would become necessary either to (1) tender permanent appointments to commissioned grades to temporary officers who are not fully qualified for permanent appointment; (2) revert such temporary officers to their permanent status and call reservists to active duty; or (3) make permanent appointments from among the sources provided in section 225 of title 14. Any of these alternatives is less practicable than extending the present temporary appointment and promotion authority.

The maximum authorized commissioned officer strength of the Coast Guard was set at 2,250 by section 1 of the act of July 23, 1947 (61 Stat. 413). This provision was reenacted in section 42 of title 14, United States Code, by the act of August 4, 1949, and is presently in effect.

The justification for the enactment of the maximum-strength provision in 1947 is set forth in House Report No. 622, 80th Congress:

"Authorization of the new ceiling of 2,250 is based on an estimate of the number of officers, not including chief warrant and warrant officers, required to perform the normal peacetime duties of the Coast Guard. Your committee is of the opinion that the limitation of 2,250 commissioned officers is a reasonable estimate of the service's requirements during the near future, providing a number sufficiently large to permit the Coast Guard efficiently to fulfill its duties and at the same time sufficiently small to insure against unnecessary cost to the Nation and its taxpayers. It should be noted that this figure is merely an authorization; the actual number of officers serving in the Coast Guard will be established by the appropriations made available to this service."

At the time this statement was made in 1947 approximately 1,800 officers were on active duty in the Coast Guard. The limitation of 2,250 then established appeared adequate to provide for any foreseeable normal peacetime growth. By early 1950, however, additional duties and requirements had necessitated the building up of the onboard officer strength to approximately 2,160, which was within 100 of the limitation. Thus, with the outbreak of the Korean incident, the Coast Guard would not have had the statutory authority to augment its forces beyond 2,250 officers had it not been that the limitation was suspended by the act of August 3, 1950 (64 Stat. 408), as were the personnel ceilings in the other Armed Forces. Since that time the Coast Guard requirement for officers has been considerably in excess of the limitation of 2,250, reaching a peak of over 3,100 at one time. The number of officers on active duty at present is approximately 2,600. The existing limitation on personnel ceilings under the act of August 3, 1950 (64 Stat. 408), as amended, expires on July 31, 1957, if not renewed. If the suspension is not renewed the officer ceiling will revert to 2,250. Raising the ceiling to 3,500 officers as proposed would provide authority for an increase in officer strength in the event of a sudden increase in service commitments comparable to that required by the Korean incident.

Furthermore, if the suspension is not renewed it is doubtful that the Coast Guard would be able to carry out its commitments in the foreseeable future with 2,250 officers. Moreover, a forced reduction in officer strength to 2,250 would require substantial numbers of reductions in grade and separations resulting in further serious impairment of service efficiency. The situation described would be obviated by

increasing the maximum commissioned officer strength to 3,500 as proposed. It is emphasized again that such an increase would be merely an authorization; the actual number of officers serving in the Coast Guard at any time would be established by the appropriations made available to the service.

It is also proposed to amend section 42 of title 14, United States Code, to provide for a temporary increase in the authorized number of officers in any grade by the number of officers originally appointed in that grade. There is usually a technical violation of the present section 42 when the graduates of the Coast Guard Academy are commissioned. The computation provided for in section 42 may be based only on the officers who have been commissioned. Section 42 provides that the number computed for each grade is the authorized number of officers for that grade; the implication is that that number may not be exceeded. Thus, by a strict interpretation of the section the number of graduates of the Coast Guard Academy who are commissioned should be limited to the vacancies in the ensign and lieutenant (junior grade) bracket. Usually the number of vacancies in that bracket at the time of graduation is less than the number of graduates. The technical violation of section 42 results from the number of vacancies being less than the number of graduates commissioned. The proposed amendment would obviate this situation.

The other proposed amendment to section 42 is to permit the authorized number of officers in a grade to be exceeded by the number of officers for whom vacancies exist in the next higher grade but whose promotion has been delayed. The purpose of this amendment is to avoid the necessity under present section 42 of postponing certain promotions when there is a delay in the promotion of an officer for whom a vacancy exists in a higher grade. A delay in promotion may result from a temporary inability to pass a physical examination, necessity for taking a reexamination to meet professional requirements, pending disciplinary action, or other reason. At present, for example, if the promotion of a commander to captain is delayed, the promotions of a lieutenant commander to commander, a lieutenant to lieutenant commander, etc., are also delayed through no fault of their own. This is unfair to the officers affected. The proposed amendment to section 42 would remedy this defect in the law.

The proposed new section 439 of title 14 provides that a commissioned or warrant officer of the Coast Guard who has served continuously since he took the original oath of office need not take a new oath upon his promotion to a higher grade. At present in the Coast Guard an officer who is promoted is required to take a new oath. There is no such requirement in any of the other Armed Forces. The elimination of the oath requirement will result in a substantial decrease in the administrative workload.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, D. C., May 31, 1956.

HON. HERBERT C. BONNER,
*Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Your request for comment on H. R. 11402, a bill to extend the existing application of the Temporary Promotion Act of 1941, as amended, to the Coast Guard, and for other purposes, has been assigned to this Department by the Secretary of Defense for the preparation of a report thereon expressing the views of the Department of Defense.

The so-called Temporary Promotion Act of 1941, as amended (34 U. S. C. 350-350k), applies to the Navy, Marine Corps, and Coast Guard. As to the Navy and Marine Corps, it is permanent law, applicable during any war or national emergency declared by the President. Section 16 of the act of July 23, 1947 (ch. 301, 61 Stat. 413), provides, however, that the application of the Temporary Promotion Act to the Coast Guard will terminate when the number of permanent active-list officers of the Coast Guard reaches 95 percent of the authorized number or on January 1, 1957, whichever is earlier. H. R. 11402 would substitute January 1, 1962, for January 1, 1957.

The bill would amend section 42 of title 14, United States Code, so as to increase the authorized commissioned officer strength of the Coast Guard from 2,250 to 3,500. It would further amend section 42 by adding a provision that the authorized number of officers in a grade is temporarily increased between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers for whom vacancies exist in the next higher grade but whose promotion has been delayed. This provision is the same in substance as provisions relating to the Navy and Marine Corps in sections 103 (f) and 303 (g) of the Officer Personnel Act of 1947, as amended (34 U. S. C. 4 (f) and 5a (g)), and the act of July 3, 1926 (34 U. S. C. 285a).

The bill would also add a new section 439 to title 14, United States Code, to provide that a Coast Guard officer who has served continuously since taking the original oath of office is not required to take a new oath upon promotion to a higher grade. The act of October 14, 1942 (10 U. S. C. 558), relating to the Army and Air Force, and section 2 of the act of May 22, 1950 (34 U. S. C. 593a), relating to the Navy and Marine Corps, contain similar provisions.

The Department of the Navy, on behalf of the Department of Defense, interposes no objection to the enactment of H. R. 11402.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on H. R. 11402 to the Congress.

Sincerely yours,

W. R. SHEELEY,
*Rear Admiral, United States Navy,
Acting Judge Advocate General of the Navy
(For the Secretary of the Navy).*

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 16 OF THE ACT OF JULY 23, 1947, AS AMENDED

SEC. 16. All Acts or parts of Acts inconsistent with this Act are hereby repealed; but the Act of July 24, 1941, as amended, shall continue to have application to the Coast Guard until such time as the Secretary of the Treasury shall determine that the number of officers holding permanent appointments on the active list of the Coast Guard is equal to 95 per centum of the number of such officers authorized by law, exclusive of extra numbers, or on [January 1, 1957] *January 1, 1962*, whichever shall occur earlier.

SECTION 42 OF TITLE 14, UNITED STATES CODE

§ 42. Number and distribution of commissioned officers

The total number of commissioned officers, including permanent, temporary, temporary service, and reserve officers on active duty, and excluding commissioned warrant officers, on the active list of the Coast Guard shall not exceed [two thousand two hundred and fifty] *three thousand five hundred*. Included in this number are the extra numbers in grade which under law operate to increase the authorized number of line officers upon separation or retirement of the person holding that number, and the members of the permanent commissioned teaching staff of the Coast Guard Academy, who shall not be considered as extra numbers in grade. The commissioned officers shall be distributed in the grades of rear admiral, captain, commander, lieutenant commander, lieutenant, lieutenant (junior grade), and ensign in the same percentages as prescribed by Act of Congress for the Navy. To determine the authorized number of officers in the various grades as provided in this section the computation shall be based on the actual number of officers on active duty, including permanent, temporary, and reserve officers on active duty, but not including extra numbers in the Coast Guard at the date of making the computation. The Secretary shall, at least once each year, make such computation, and the resulting numbers in the various grades as so computed shall be held and considered for all purposes as the authorized number in such various grades, *except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason*. The nearest whole number shall be regarded as the authorized number in case fractions result in the computation. The Secretary may, however, as he may from time to time determine the needs of the Coast Guard require, reduce the percentages applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentages applicable

to any grade or grades below the grade or grades in which such percentages are so reduced. No officer shall be reduced in permanent grade or pay or removed from the active list of the Coast Guard as the result of any computation or determination made by the Secretary to establish the number of officers in the various grades.

